

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT
Thurgood Marshall U.S. Courthouse 40 Foley Square, New York, NY 10007 Telephone: 212-857-8500

MOTION INFORMATION STATEMENT

Docket Number(s): 15-3228(Cons), 15-2801 (L), 15-2805 (Cons)

Caption [use short title]

Motion for: Stay of issuance of mandate related to Apr. 25, 2016

National Football League Management Council
("NFLMC")

v.

National Football League Players' Association
("NFLPA")

Set forth below precise, complete statement of relief sought:

Relief is sought for Stay of mandate up to 90-days for Apr. 25, 2016

Summary Order affirming a Sept. 9, 2015 Order denying intervening

to file petition for certiorari. The panel of Hons. Katzmann, Chin

and Parker unanimously agreed that pro se party seeking relief per

Fed.R.Civ.Pr.60 to reduce fraud-on-the-court should be denied.

Petition for panel rehearing/en banc was denied July 13, 2016.

MOVING PARTY: Michelle L. McGuirk, Appellant, Pro Se

☐ Plaintiff

☐ Defendant

☒ Appellant/Petitioner

☐ Appellee/Respondent

OPPOSING PARTY: NFLPA as Appellee and NFLMC as Appellant

MOVING ATTORNEY: n/a; Pro Se party

[name of attorney, with firm, address, phone number and e-mail]

OPPOSING ATTORNEY: Theodore B. Olson; Paul Clement (Leads)

Michelle L. McGuirk

Gibson Dunn & Crutcher, L.L.P. 1050 Connecticut Ave. Wash.DC 20036

P.O. Box 369, New York, N.Y. 10113-369

202-955-8668[tolson@gibsondunn.com][pclement@bancroft.com]

(646) 662-5241; [michelle_mcguirk@yahoo.com]

Bancroft PLLC, 500 N.J. Ave., Ste 700, Wash DC 20001; 202-234-0090

Court-Judge/Agency appealed from: U.S. District Court, S.D.N.Y., Hon. Richard M. Berman, Case 15-cv-5916

Please check appropriate boxes:

Has movant notified opposing counsel (required by Local Rule 27.1):

☒ Yes ☐ No (explain):

Proof of service with Affidavit for filing July 21, 2016

Opposing counsel's position on motion:

☐ Unopposed ☐ Opposed ☒ Don't Know

Does opposing counsel intend to file a response:

☐ Yes ☐ No ☒ Don't Know

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND
INJUNCTIONS PENDING APPEAL:

Has request for relief been made below?

☐ Yes ☐ No

Has this relief been previously sought in this Court?

☐ Yes ☐ No

Requested return date and explanation of emergency:

Non-emergency request for stay of issuance of mandate (Dkt#118)

and request to consider stay of allegedly void Judgment in 15-2801.

Is oral argument on motion requested?

☐ Yes ☒ No (requests for oral argument will not necessarily be granted)

Has argument date of appeal been set?

☒ Yes ☐ No If yes, enter date: 15-2801 held March 3, 2016

Signature of Moving Attorney:

Michelle L. McGuirk

Date:

July 20, 2016

Service by: ☐ CM/ECF

☒ Other [Attach proof of service]

15-3228 (Con)

Nat'l Football League Mgmt. Council v. Nat'l Football League Players Ass'n

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO SUMMARY ORDERS FILED AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY THIS COURT'S LOCAL RULE 32.1.1 AND FEDERAL RULE OF APPELLATE PROCEDURE 32.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 25th day of April, two thousand sixteen.

PRESENT:

ROBERT A. KATZMANN,
Chief Judge,
BARRINGTON D. PARKER,
DENNY CHIN,
Circuit Judges.

National Football League Management Council,
Plaintiff-Counter-Defendant-Appellant,

and

National Football League,
Defendant-Appellant,

-v.-

National Football League Players Association,
on its own behalf and on behalf of Tom Brady,
Defendant-Counter-Claimant-Appellee,

and

Tom Brady,
Counter-Claimant-Appellee,

**No. 15-3228 (Con)
SUMMARY ORDER**

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U.S. COURT OF APPEALS
SECOND CIRCUIT
NIGHT DEPOSIT

1 and

2 Michelle McGuirk,
3 *Appellant.*
4 _____

5 FOR APPELLANT:

Michelle L. McGuirk, pro se, New York,
N.Y.

6
7 UPON DUE CONSIDERATION, it is hereby ORDERED, ADJUDGED, AND
8 DECREED that the district court's order is AFFIRMED.
9

10 Appellant Michelle McGuirk moved in the district court to intervene in *National Football*
11 *League Management Council, et al. v. National Football League Players Association, et al.*, Nos.
12 15-2801, 15-2805. The motion was denied. The parties' appeal to this Court was resolved in an
13 opinion filed simultaneously with this summary order. Because McGuirk has failed to identify any
14 adequate legal basis for her intervention, the district court's order is affirmed.

15 For the Court:
16 Catherine O'Hagan Wolfe, Clerk

17 

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Docket #15-3228 CV (CON)

-----x
NATIONAL FOOTBALL LEAGUE
MANAGEMENT COUNCIL,

Plaintiff-Counter-Defendant-Appellee,

NATIONAL FOOTBALL LEAGUE,

Defendant-Appellant

- v. -

NATIONAL FOOTBALL LEAGUE PLAYERS

ASSOCIATION, on its own behalf and Tom Brady

Defendant-Counter-claimant

TOM BRADY,

Counter-claimant

MICHELLE L. MCGUIRK,

Appellant

-----x

MOTION to STAY
MANDATE PENDING
PETITION FOR CERTIORARI

Related: 15-2801 cv (L)
15-2805 cv (CON)

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U.S. COURT OF APPEALS
SECOND CIRCUIT
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PLEASE TAKE NOTICE that upon Affidavit of Michelle McGuirk, Appellant, dated July 20, 2016, Form T-1080 and all prior pleadings, I seek a stay of issuance of mandate of Apr. 25, 2016 Summary Order, pending Petition for writ of Certiorari to the Supreme Court of the U.S. per Fed.R.App.Pr. 41(d)(2)(A), which affirmed a Sept. 9, 2015 District Court Order denying motion to intervene, with a Petition for Panel Rehearing or Rehearing *En Banc* denied July 13, 2016 (Dkt#185).

Relief is directed to Hon. Robert A. Katzmann, Chief Judge, for concurrence with Hons. Barrington D. Parker (Senior) and Denny Chin (Active), each a decision maker to deny relief (Dkt#118:15-2801:Dkt#238) and allegedly void 15-2801 Order, with referral for majority consent of active Justices of the Second Circuit Court of Appeals. Motion request is timely within seven days of the July 13, 2016 Order.

Dated: July 20, 2016

New York, New York

Michelle L. McGuirk

Michelle L. McGuirk, Appellant *Pro Se*
P.O. Box 369 New York, NY 10113-369

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Docket #15-3 228 CV (CON)

-----x
NATIONAL FOOTBALL LEAGUE
MANAGEMENT COUNCIL,

Plaintiff-Counter-Defendant-Appellee,

NATIONAL FOOTBALL LEAGUE,

Defendant-Appellant

- v. -

NATIONAL FOOTBALL LEAGUE PLAYERS

ASSOCIATION, on its own behalf and Tom Brady

Defendant-Counter-claimant

TOM BRADY,

Counter-claimant

MICHELLE L. MCGUIRK,

Appellant

-----x
STATE OF NEW YORK, COUNTY OF NEW YORK ss:

I, Michelle L. McGuirk, Appellant of full age, declare under penalty of perjury the following is true or to the best of my knowledge if based on information and belief:

1. I motioned to Intervene [JA11,Dkt#84] per Fed.R.Civ.Pr.60 in District Court 15-cv-5916 for alleged fraud-on-the-court, with relief denied Sept. 9, 2015 by Hon. Berman and appealed on Oct. 14, 2015 [Dkt#1]. I was granted expedited appeal (Dkt#37), and filed Appellant's Brief on Nov. 23, 2015 (15-2801:Dkt#120).

2. The arbitration award directed to Tom Brady was to be "suspended without pay for your club's first four games of the 2015 regular season" [JA330].

3. After appeal, alleged NFL Commissioner Roger Goodell affirmed "[t]he four-game suspension" [SPA61] after specifying the award per ¶2 [SPA42,L12], with no language permitting or inferring a carryforward of award to *any* other year.

AFFIDAVIT in SUPPORT:
STAY THE MANDATE
PENDING PETITION
FOR CERTIORARI

Related Cases: 15-2801 cv (L)
15-2805 cv (Cons)

4. Bancroft PLLC filed NFLMC's Brief & Special Appendix on Oct. 26, 2015 (Dkt#9), asking the Court to "order that the Commissioner's award should be enforced" (Dkt#9,P59) bound by ¶2. A Reply Brief was filed Dec. 21, 2015 (Dkt#70).

5. Winston & Strawn, L.L.P. filed Answering Brief for NFLPA and Tom Brady on Dec. 7, 2015 (Dkt#63). NFLPA's Brief refers to a "four-game suspension" (Dkt#63;P1), asking the Court to affirm the District Court judgment to vacate (P62).

6. Case 15-2801 as "*National Football League Management Council v. National Football League Players' Association*" was argued on Mar. 3, 2016.

7. Summary Order of Apr. 25, 2016 affirmed denial for me to intervene (Dkt #118;15-2801:Dkt#238), while 15-2801's Opinion (Dkt#236) reversed a Sept. 3, 2015 district court judgment, remanding to affirm arbitration award [P33,L15-17].

8. I filed a Memo of Law in Support of Petition for Panel Rehearing and Rehearing *En Banc* on May 9, 2016 (Dkt#123) for errors of procedure, fact and law, which places the Commissioner's authority in controversy to grant award (*see* ¶28).

9. After a motion to add Citations, Rules, Laws and Statutes was denied on June 21, 2016 (Dkt#174), the Court denied ¶8 with no proof yet of mailed Order.

10. NFLPA's May 23, 2016 Petition for Panel Rehearing (Dkt#130), which omitted the fact a *new* arbitration award is void, was denied on July 13, 2016. Such Order appears defective, omitting name of panel judges (allegedly same as ¶7) and active members who denied rehearing, despite each required to assess case merits.

11. Fed.R.App.Pr. 41(b) outlines timely issuance of mandate within seven days of ¶9 and ¶10 decisions, with Court discretion to shorten or extend such time.

12. A stay to issue mandate per Fed.R.App.Pr.41(d)(2)(A) pending Petition for Certiorari up to ninety days in my case is not cause to stay mandate in 15-2801, *unless* there are concerns "four-game suspension" is imprecise (Dkt#246:P2,L9).

13. A petition for writ of certiorari to the Supreme Court of the U.S. will present a substantial question of veracity of *pro se* rights that must be given equal opportunities in matters important to judicial and administrative fairness, peeling back a rather ugly onion of subordinating rights protected by the U.S. Constitution.

14. There is good cause for stay of both Apr. 25, 2016 mandates in ¶12 as the Court cannot approve *new* awards to harm Mr. Brady's professional career in 2016 or any other year (¶7, *see* ¶1,30) without *appearing* to act outside job duties.

15. To my knowledge, exceptional circumstances defy expectations, such as my qualifying for 1984's U.S. National Gymnastics Team and Olympic Trials as an elite gymnast [est. probability .00069%] and surviving multiple disease diagnosis¹.

16. I plan to add denied ADA and oral argument relief to ¶13 (Dkt#210).

17. The motion for stay is served on parties per Fed.R.App.Pr.41(d)(2)(a), with respectful request to waive bond or security per Fed.R.App.Pr. 41(d)(2)(C).

18. I incorporate by reference prior filings to grant stay of ¶12 mandates.

Sworn to before me this 20th day of
JULY, 2016.

Benjamin Steinberg
Notary Public

Benjamin Steinberg
Notary Public, State of New York
No. 02ST6042665
Qualified in Bronx County
Commission Expires May 30, 2018

DATED: July 20th, 2016

By: Michelle McGuirk
Michelle McGuirk, Appellant *Pro Se*
PO Box 369, New York, NY 10113-369

¹Est. survivorship= $[0.2\% * 76.2\% * 8.5\% * 75\% * 1.0\% * .1\% * .1\%] * 7bn \text{ world} = <1 \text{ person}$.
Statistics taken per the National Institute of Health, PHI data and expert feedback.

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Docket #:15-3228 cv (CON)

-----x
NATIONAL FOOTBALL LEAGUE
MANAGEMENT COUNCIL,

Plaintiff-Counter-Defendant-Appellee,

NATIONAL FOOTBALL LEAGUE,
Defendant-Appellant

- v. -

NATIONAL FOOTBALL LEAGUE PLAYERS
ASSOCIATION, on its own behalf and Tom Brady
Defendant-Counter-claimant

TOM BRADY, Counter-claimant

MICHELLE L. MCGUIRK, Appellant
-----x

**AFFIDAVIT
OF SERVICE**

Related: 15-2801 cv (L)
15-2805 cv (Cons)

STATE OF NEW YORK, COUNTY OF NEW YORK ss:

I, Michelle L. McGuirk, Appellant, of full age, declare under penalty of perjury on
July 20, 2016, a copy of i) Motion to Stay Mandate Pending Petition for Certiorari;
ii) Form T-1080; iii) Affidavit in Support and iv) Apr. 25, 2016 Order was served by
priority mail in a postage-paid envelope under custody of the U.S. Postal Service to:

Daniel L. Nash - Attorneys for NFLMC c/o Akin, Gump, Strauss, Hauer & Feld, LLP 1333 New Hampshire Avenue, NW Washington, DC 20036	Jeffrey L. Kessler - Attorneys for NFLPA c/o Winston & Strawn, LLP 200 Park Avenue New York, N.Y. 10166
Theodore B. Olson - Attorney for NFLPA c/o Gibson, Dunn & Crutcher, LLP 1050 Connecticut Avenue, NW Washington, DC 20036-5303	Gregg H. Levy - Attys. for Roger Goodell c/o Covington & Burling, LLP One CityCenter, 850 Tenth Street, NW Washington, DC 20001-4956
Paul D. Clement - Attorneys for NFLMC c/o Bancroft PLLC 500 New Jersey Avenue NW, Suite 700 Washington DC 20001	Eric R. Delinsky - Atty. for Alleged Amici Zuckerman Spaeder, L.L.P. 1800 M. Street, N.W. Suite 1000 Washington, D.C. 20036
James B. Coppess - Atty. for Alleged Amicus American Federation of Labor and Congress of Industrial Organization 815 16 th Street, N.W. Washington, D.C. 20006	Anthony S. Barkow - Atty. for Alleged Amicus Jenner & Block, L.L.P. 919 Third Avenue New York, N.Y. 10022

Matthew D. Baker – <i>Atty. for Alleged Amici</i> Rees Broome, P.C. 1900 Gallows Rd., Suite 700 Tysons Corner, VA 22182	Andrew S. Tulumello – <i>Atty. for Tom Brady</i> c/o Gibson, Dunn & Crutcher, LLP 1050 Connecticut Avenue, NW Washington, DC 20036-5303
Daniel L. Goldberg – <i>Atty. for NEP, LLC</i> Morgan, Lewis & Bockiu, L.L.P. One Federal St. Boston, Massachusetts 02110	

Sworn to before me this 22 day of
JULY, 2016.

Benjamin Steinberg
Notary Public

Benjamin Steinberg
Notary Public, State of New York
No. 02ST6042665
Qualified in Bronx County
Commission Expires May 30, 2018

Dated: July 22nd, 2016

Michelle L. McGuirk
Michelle L. McGuirk, Appellant *Pro Se*
P.O. Box 369, New York, NY 10113-369

U.S. COURT OF APPEALS
COUNTER 2
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